Supreme Court, U.S.
FILED

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No. 97-

IN THE
Supreme Court of the United States
OCTOBER TERM, 1997

LEONARD H. BECK,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit

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PETITION FOR WRIT OF CERTIORARI

LEONARD H. BECK
Petitioner pro se
2515 McCawber Drive
Wilmington, DE 19808
(302) 994-7200

10 pp

QUESTIONS PRESENTED

1. Is the Practice of Probation Constitutional?
2. Is Sentence-Bargaining toward Probation in conflict with the Constitutional Dignity and Responsibility of Jury to reach a Verdict?
3. Is the Practice of Probation consistent with Your decision that Restitution is Appropriate under the Witness Protection Act of 1982?
4. Does Probation belittle responsibility for Restitution to the Victim, and to the Community?
5. Does Probation adequately insure Restitution to prevent Future Criminal Conduct, as ruled in the New Jersey Parole Act of 1979?

and therefore,

6. Is it Reasonable for each and every Convict to prepare for Restitution, in place of Probation?

PARTIES TO THE PROCEEDING

Attorney General of the State of Delaware
820 N. French Street
Wilmington, DE 19801

Attorney General of the United States
10th & Constitution Ave., N.W.
Washington, DC 20530

Paulette Nash, Esq.
U.S. Attorney
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Superior Court of Delaware in C.A. No. 94C-12-254 ruled that a question of equity exceed her Court's Authority.

Delaware Court of Chancery defers to the United States District Court in this Constitutional matter.

U.S. District Court for Delaware in C.A. No. 95-264-JJF dismissed this Plaintiff's complaint for not Alleging a sufficient Standing to grant Federal Court Jurisdiction.

U.S. District Court for Delaware in C.A. No. 96-289-SLR dismissed a re-focused complaint, on *res judicata*, and still no standing for Jurisdiction.

U.S. Court of Appeals for the Third Circuit in Case No. 97-7125, July 28,1997, affirmed District Court, fine $131.

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OPINIONS BELOW

The Judgment Order of the United States Court of Appeals for the Third Circuit is unreported and reproduced as Appendix A. The Order of the United States District Court for the District of Delaware is unreported and produced as Appendix B.

BASIS OF JURISDICTION

New Jersey Supreme Court

Justice Handler writing for the N.J. Parole Act of 1979:

> The purpose of restitution is to assure rehabilitation of the Offender and to prevent recurrence of future criminal conduct.

U.S. Supreme Court

Hughey v. United States, 495 U.S. 411 (1990)

> Restitution is appropriate under the Witness-Protection Act of 1982. Restitution may be awarded for the loss caused by the specific conduct that is the basis of the offense conviction.

CONSTITUTIONAL PROVISIONS INVOLVED

The Constitution of the United States in Article III, and in Amendments 5., 6., 7., and 8. supports the Responsibilities of Jury to properly decide, fine, and punish.

STATEMENT OF FACTS

The Delaware Code TITLE II Section 4204 allows for wide Judicial discretion, from Probation to Life in Prison without Parole, for crimes ranging up to, but not including 1st degree murder.

CONCLUSION

Allowance of this Writ is based on the fact that a State Court has decided in favor of Probation, although the important question of Constitutionality has not, but should be settled by this Court.

Respectfully submitted,

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Appendix

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 97-7125

LEONARD H. BECK,

Appellant

v.

U.S. ATTORNEY

On Appeals for the United States Distrcit Court
for the District of Delaware
(D.C. Civ. No. 96-00289)
District Judge: Honorable Sue L. Robinson

Submitted under Third Circuit LAR 34.1(a)
July 2, 1997
BEFORE: GREENBERG, LEWIS,
and MC KEE, *Circuit Judges*

JUDGMENT ORDER

After consideration of the contentions raised by appellant, it is

ADJUDGED and ORDERED that the order of the district court entered March 4, 1997, be and is hereby affirmed.

Costs taxed against appellant.

BY THE COURT:

/s/ (signature illegible)
Circuit Judge

ATTEST:

/s/ (signature illegible)
Chief Deputy Clerk

DATED: JUL 28 1997

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Civil Action No. 95-264-JJF

LEONARD H. BECK,

Plaintiff,

v.

UNITED STATES ATTORNEY GENERAL,

Defendant.

Filed Mar 29 '96
Clerk U.S. District Court
District of Delaware

ORDER

WHEREAS, Plaintiff Leonard H. Beck filed a Complaint asking the Court to declare Probation Unconstitutional (D.I. 1);

WHEREAS, Beck contends that probation strips away the dignities and responsibilities of the jury (D.I. 1 at 4-6);

WHEREAS, Beck proposes alternatives to probation in his attached Friend of the Court Brief (D.I. 1 at 9-22);

WHEREAS, the Attorney General has filed a Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12 (b)(6) (D.I. 4);

WHEREAS, the Attorney General contends that Beck's Complaint does not state a cause of action against the

defendant, but rather identifies and expounds upon certain aspects of the criminal justice system (D.I. 4 at 1);

WHEREAS, the United States Constitution limits the jurisdiction of federal courts to "cases and controversies," U.S. Const. art. III, § 1;

WHEREAS, standing is an essential element of the case or controversy requirement to establish subject matter jurisdiction, *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992);

WHEREAS, a plaintiff must establish that (1) the plaintiff has suffered injury which is concrete and particularized, and actual and imminent, not conjectural or hypothetical; (2) a causal connection exists between the injury and the conduct complained of; and (3) the injury will be redressed by a favorable decision, *Id.*;

WHEREAS, Beck contends that he suffered injury as a past and future member of the Federal Petit Jury (D.I. 5 & 6);

WHEREAS, the Court concludes that is does not have subject matter jurisdiction over the matter pursuant to Federal Rule of Civil Procedure 12(b)(1);

NOW, THEREFORE, IT IS HEREBY ORDERED this 29 day of March, 1996 that:

1. Defendant's Motion to Dismiss Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) (D.I. 4) is GRANTED.

/s/ Joseph J. Fannan Jr.
UNITED STATES DISTRICT COURT